

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RAYMOND H. ALEXANDER

Plaintiff,

v.

KELLY EATON, *et al.*,

Defendants.

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Civil No. 5:22-cv-05066-JMG

ORDER

AND NOW, this 17th day of January, 2025, upon consideration of Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint for Failure to State a Claim (ECF No. 91), Plaintiff's Response in Opposition to Defendants' Motion to Dismiss (ECF No. 99), Defendants' Reply Brief (ECF No. 105), and Plaintiff's Sur-Reply to Defendants' Motion to Dismiss (ECF No. 108), **IT IS HEREBY ORDERED:**

1. Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint for Failure to State a Claim (ECF No. 91) is **GRANTED IN PART AND DENIED IN PART**.

a. Defendants' Motion (ECF No. 91) is **GRANTED** as to Count I of Plaintiff's Second Amended Complaint. Count I of Plaintiff's Second Amended Complaint (ECF No. 88) is **DISMISSED WITH PREJUDICE**.

b. Defendants' Motion (ECF No 91) is **GRANTED** as to Count II of Plaintiff's Second Amended Complaint. Count II of Plaintiff's Second Amended Complaint (ECF No. 88) is **DISMISSED WITH PREJUDICE**.

c. Defendants' Motion (ECF No. 91) is **GRANTED IN PART** and **DENIED IN PART** as to Count III of Plaintiff's Second Amended Complaint. Count III of Plaintiff's Second Amended Complaint (ECF No. 88) **REMAINS** as it pertains

to the December 9, 2021, incident, but is **DISMISSED WITH PREJUDICE** as it pertains to the April 14, 2022, incident.

d. Defendants' Motion (ECF No. 91) is **GRANTED IN PART** and **DENIED IN PART** as to Count IV of Plaintiff's Second Amended Complaint. Count IV of Plaintiff's Second Amended Complaint (ECF No. 88) **REMAINS** as it pertains to Plaintiff's allegation of retaliation by way of Defendants' filing of a false violation against him, but it is **DISMISSED WITH PREJUDICE** as to all other allegations of retaliation.

e. Defendants' Motion (ECF No. 91) is **GRANTED** as to Count V of Plaintiff's Second Amended Complaint. Count V of Plaintiff's Second Amended Complaint (ECF No. 88) is **DISMISSED WITH PREJUDICE**.

2. The Clerk of Court is **DIRECTED** to **TERMINATE** Deana Welch, Todd Clark, and Eric Pennypacker as Defendants in this case.
3. Plaintiff's Request for Declarative Relief (ECF No. 112) is **DENIED WITHOUT PREJUDICE**.¹

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge

¹ On November 18, 2024, Plaintiff filed a Request for Declarative Relief (ECF No. 112) where he argues that 18 Pa. C.S. § 3102 is unconstitutional, and he requests this court to declare it so. Plaintiff attaches a Motion to Vacate Illegally Obtained Conviction (ECF No. 112-1) that appears to have been filed in the Court of Common Pleas of Bucks County. The Court takes no position as to the merits of Plaintiff's arguments, but it is improper for Plaintiff to make those arguments in this matter. The named Defendants in this matter are not the proper defendants for Plaintiff's constitutional claims. Accordingly, Plaintiff's Request for Declarative Relief (ECF No. 112) is **DENIED WITHOUT PREJUDICE**.